

# Truth vs. Free Speech

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2019-12-07T17:06:05

Southeast Asian governments have been stepping up their efforts to actively manage the truth by combatting false information. Among the main tools are correction orders and state-run “fake news centers” that monitor and “rectify” alleged falsehoods online. In addition, government discourse employs increasingly belligerent language to denounce the perceived threats. The Southeast Asian “war on fake news” thus makes the region the world’s most vibrant laboratory of anti-falsehood legislation. The protection of the truth is becoming an increasingly accepted ground for restricting free speech.

While developments in Malaysia, Singapore and Thailand have received most public attention, also Indonesia, the Philippines and Vietnam have introduced relevant legislation. Besides provisions in general broadcasting and telecommunication laws, [more recent legislation](#) specifically addresses communication or distribution of false information via the internet. Most criminal provisions demand that a falsehood poses a threat to public interests such as national security, public order, elections, trust in governmental institutions, or that it causes public anxiety. Malaysia’s Anti-Fake News Act of 2018, which has recently been [repealed](#), however, criminalized the malicious communication of any false information without further limitations. Besides criminal provisions, several countries have also enacted laws enabling the removal of false information or the blocking of internet access, regardless of intention.

## Cleaning up the internet

[Singapore](#) has just started to enforce the [Protection from Online Falsehoods and Manipulation Act](#) (POFMA). The government has sent orders to a [local politician](#) and to [Facebook](#), demanding to add correction notices to individual posts. One post alleged that the government had influenced decisions made by state-owned investment companies, the other accused the government of an arrest of a supposed whistleblower as well as election rigging. Both posts thus dealt with domestic political matters and were unrelated to Singapore’s perceived external vulnerability or the peaceful coexistence of different ethnicities, both of which had often been officially cited as reasons to enact POFMA.

Thailand [inaugurated](#) an “Anti-Fake News Center” on 1 November 2019. It works together with governmental and non-governmental organizations to monitor the internet and publish corrections on its [website](#), [Facebook](#) and [Twitter](#) pages. If content violates criminal provisions, the center informs the police for further action. The responsible minister [promised](#) that the center would verify all received information within two hours. After the first two weeks of its existence, he [announced](#) that the center detected more than eight thousand “messages with false news content”, with 15 percent having the potential of inciting social division and affecting

national security. Overall, the minister claimed that the center processed more than 120,000 news items, which were forwarded to it by third parties, in thirteen days.

Thailand's anti-fake news center is comparable to earlier approaches in Indonesia ([Stophoax](#)), where a similar "war room" had been [set up](#), as well as Malaysia ([Sebenarnya](#)) and Singapore ([Factually](#)), where state-run online portals publish alerts about alleged falsehoods. Most of these centers also offer reporting functions for the public. In the Philippines, the election commission [assembled](#) a team to spot and report "fake news" ahead of the 13 May 2019 elections. In Vietnam, the so-called [Task Force 47](#) monitors and removes "fake news" stories.

## Tightening up the discourse

Meanwhile, government representatives are sharpening their language to denounce the perceived "fake news" threat. Only a few key statements from Singapore, Thailand and Malaysia can be included here. But they stand pars-pro-toto for tougher government discourses in the region and are often reminiscent of the language that was used in the "war on terror".

Singapore's Second Minister for Defense, Ong Ye Kung, [said](#) that the fight against "fake news" is "not conventional warfare, but a battle within all our societies." Prime Minister Lee Hsien Loong [described](#) hate speech and "fake news" as "spreading like wildfire" in social media. With reference to the constitutional protection of free speech, Law and Home Affairs Minister K Shanmugam [stated](#) that harming the search for the truth or preventing citizens from becoming informed did not warrant protection.

In Thailand, where the current government perceives liberal-progressive groups as serious threats to the unity of the country, separating fake from real is highly political. The deeply polarized Thai society thus [struggles](#) to agree on what constitutes the commonly agreed political reality. In this setting, the influential army chief [said](#) that "the threat now is fake news. (...) It's like cyber warfare. And when it combines with the [bombing] incident that happened last week, it's like hybrid warfare. (...) Now it is not just an open enemy like the old time." The Minister of Digital Economy and Society, Buddhipongse Punnakanta, [stated](#) that "fake news is embedded within every aspect of our society" and [described](#) "fake news" as "one of the critical threats that could harmfully affect people's lives and the economy."

In Malaysia, the previous administration of Prime Minister Najib Razak [rushed](#) the Anti-Fake News Act 2018 through parliament in what appeared to be a last-minute effort to reassert control over a major corruption scandal. Najib himself had [called](#) upon the media to "fight to the last this tide of fake and false news that threatens to turn truth into a purely subjective matter." Though the Act has been abolished in the meantime, the Mahatir administration continues to consider "fake news" as a central challenge. Recognizing the potential of existing laws to combat falsehoods, the Minister for Communications and Multi Media, Gobind Singh Deo, [promised](#) to "tweak them to make them more relevant for today's media." And only days before the Anti-Fake News Act was finally repealed in October 2019, Prime Minister Mahatir

Mohamad [said](#), “the anti-fake news law is good because on social media you find a lot of wrong views coming out and they affect the thinking of the people.”

Dissecting these discursive elements is relevant as governments across the region occupy central positions to influence the public discourse on security issues. Due to their agenda-setting power, privileged access to the media, and limited judicial oversight, threats to public order and other interests receive their significance through the determination by these actors. In addition, domestic settings are supported from other discursive arenas. The global and regional disinformation discourses are relevant feedback loops. For instance, an initiative to fight “fake news” has also been [launched](#) within the Association of Southeast Asian Nations (ASEAN).

## Exploiting discursive ambiguities

The contemporary discourse about the dangers of disinformation is largely focused on the power of social media. Facebook, Twitter, WeChat and WhatsApp, to name just a few, are direct communication channels unfiltered by editorial oversight. Selective information exposure and the filter bubble phenomenon have been recognized as major causes of increasing polarization in societies worldwide. Empirical [studies](#) have also investigated the agenda-setting power of deliberately false information in the media landscape.

From a discursive perspective, however, the strikingly indeterminate meaning of “fake news” is especially important. In statements by governmental office-holders and politicians, but also in traditional and social media, and in academia, the term may be used to refer to such different phenomena as news satire or parody, propaganda, the fabrication or manipulation of reports, the discrediting of traditional news or dissenters, or even to an advertising technique. This has led [some](#) to argue for the abandonment of the term altogether due to the lack of a stable public meaning.

[Others](#) have classified “fake news” as a Laclaudian floating signifier. And indeed, the “fake news” discourse is Janus-faced. On the one hand, governments and civil society around the world may share the general conviction that false information and, particularly, deliberate misinformation can have the potential of poisoning public opinion or even lead to deadly [lynch mobs](#). On the other hand, there is the omnipresent temptation on all sides to [discredit](#) inconvenient truths by presenting them as fake. Antagonist language categorizes the “fake news” producer as the evil “Other” who needs to be neutralized. The parallels to the global “war on terror” are apparent.

## Discourse becoming law

The legislative developments and the public discourse surrounding them are evidence of the gradual emergence of truth as a legal interest in several Southeast Asian countries. The intensive focus on false information as the central problem

of our time contributes to the formation of a novel ground for the restriction of free speech: the protection of the truth.

Countless government statements do not distinguish between acceptable and unacceptable falsehoods but rather refer to the problem of “fake news” in general terms. Any falsehood thus becomes potentially harmful. Though mankind has managed to deal with lies and misinformation for thousands of years, a regional consensus is emerging according to which a “meaningful exercise of free speech” in a “properly functioning marketplace of ideas” is not guaranteed anymore without the filtering of state-regulated traditional media. The states’ trust in corrective mechanisms is dwindling. Falsehoods themselves are becoming a political and legal issue. This heightened governmental attention is largely attributable to the rise of social media, particularly in [Southeast Asia](#). But it is also sustained and amplified by governmental framing and discursive superiority.

Restrictions of constitutional rights are likely to be justified on this ground to an increasing extent. The balance between free speech and the fight against “fake news” is expected to tilt in favor of the eradication of falsehoods. Governmental language of “war” affects the balancing of rights and interests, particularly where public discourse is dominated by state actors. In these hegemonic settings, the governments’ continued emphasis on “fake news” can be expected to shift legal interpretations and adjudication toward the emancipation of truth as a public interest. The floating signifier becomes a Laclaudian nodal point.

This development deserves attention and necessitates continued observation. Communication and discourse theories that view public discourse as a yardstick of legal developments can help with this work. Interdisciplinary studies at the intersection between law and discourse are required.

